

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF ROCKY MOUNTAIN) CASE NO. PAC-E-21-01
POWER’S APPLICATION FOR APPROVAL)
OF THE TRANSFER OF THE LOWER) NOTICE OF APPLICATION
KLAMATH HYDROELECTRIC PROJECT)
GENERATING FACILITIES) NOTICE OF
) MODIFIED PROCEDURE
)
) ORDER NO. 34928

On January 14, 2021, PacifiCorp, d/b/a/ Rocky Mountain Power (“Rocky Mountain Power” or “Company”) applied to the Commission for approval of the Property Transfer Agreement (“Transfer Agreement”) between the Company and the Klamath River Renewal Corporation (“Renewal Corporation”). The Company requests the Commission determine that the property disposition is in the public interest by July 15, 2021.

The Commission now issues Notice of Modified Procedure and sets deadlines for interested persons to comment on the Application, and for the Company to reply.

NOTICE OF APPLICATION

YOU ARE HEREBY NOTIFIED that the Transfer Agreement provides for transfer of four hydroelectric dams—J.C. Boyle, Copco No. 1, Copco No. 2, and Iron Gate (collectively, “Lower Klamath Project”)—from the Company to the Renewal Corporation, along with approximately 8,000 acres of real property and personal property associated with the dams. Application at 1. The Company states that approval of the Transfer Agreement is necessary for dam removal to begin. *Id.* at 16. The Company states the Transfer Agreement “provides for PacifiCorp’s reservation of easements for all transmission, distribution, service, substation, and communications assets required to preserve the safe and reliable function of the utility system after the land upon which the assets are located is transferred to the Renewal Corporation.” *Id.*

YOU ARE FURTHER NOTIFIED that the Company states the transfer of the Lower Klamath Project to the Renewal Corporation is in the public interest because it is lower cost and lower risk than relicensing the dams. *Id.* at 2. The Lower Klamath Project has been operating on annual licenses from the Federal Energy Regulatory Commission (“FERC”) since the original license issued in 1954 expired in 2006. *Id.* at 4.

YOU ARE FURTHER NOTIFIED that the Klamath Hydroelectric Settlement Agreement (“KHSA”) was executed by the Company and 48 parties, including the states of Oregon and California, the U.S. Department of Interior, the U.S. Department of Commerce’s National Marine Fisheries Service, several Native American tribes, and irrigation, conservation, and fishing groups in 2010. *Id.* at 4-5. The KHSA provides \$450 million in public funds to cover the costs of dam removal. *Id.* at 5. The Company will collect \$200 million from Oregon and California customers through dam removal surcharges, and the remaining \$250 million would be funded through California bond funding. *Id.* at 5, 7. The Public Utility Commission of Oregon and the California Public Utilities Commission approved the KHSA surcharges. *Id.* at 7. The Company has not requested dam removal cost recovery from Idaho customers. *Id.*

YOU ARE FURTHER NOTIFIED that the KHSA was amended in 2016 because of Congressional inaction. *Id.* at 7-8. Rather than relying on Congressional action, the amended KHSA established a process to transfer the Company’s FERC license for the Lower Klamath Project to the Renewal Corporation, which would then surrender the FERC license. *Id.* at 8. The amended KHSA relies on FERC’s authority under the Federal Power Act to review and approve the license transfer and surrender. *Id.* In July 2020, FERC approved a partial transfer of the Lower Klamath Project license from the Company to the Renewal Corporation but required PacifiCorp to remain as a co-licensee. *Id.* at 10. To satisfy the Company’s internal requirements regarding the KHSA, and to satisfy FERC’s concerns, the Company, the states of Oregon and California, the Renewal Corporation, the Karuk Tribe, and Yurok Tribe entered into a Memorandum of Agreement, which removes PacifiCorp from the FERC license and makes the states and the Renewal Corporation co-licensees. *Id.* at 10-11. A new license transfer application was submitted to FERC on January 13, 2021. *Id.* at 11.

YOU ARE FURTHER NOTIFIED that the Company will transfer its property interests in the Lower Klamath Project to the Renewal Corporation once all anticipated FERC Orders and state disposition approvals are secured. *Id.* at 12-13. The Company seeks state approvals of its Transfer Agreement with the Renewal Corporation so property transfer can occur when the license transfer is accepted. *Id.* at 13. Under the Federal Power Act, a license transferee must show it holds fee title to the properties subject to the license before the license transfer can be effective. *Id.*

YOU ARE FURTHER NOTIFIED that the Company describes the Renewal Corporation's budget, including contingency reserve, for dam removal and restoration work, and compliance with FERC requirements for additional assurances in case of cost overruns. *Id.* at 14-15. The Company also describes agreements related to easements, hatcheries, conditions precedent, and environmental conditions in the Transfer Agreement. *Id.* at 16-17.

YOU ARE FURTHER NOTIFIED that the Company requests approval under *Idaho Code* § 61-328. *Id.* at 17-25.

YOU ARE FURTHER NOTIFIED that the Application is available for public inspection during regular business hours at the Commission's office. These documents are also available on the Commission's web site at www.puc.idaho.gov. Click on the "ELECTRIC" icon, select "Open Cases," and click on the case number as shown on the front of this document.

YOU ARE FURTHER NOTIFIED that all proceedings in this case will be held pursuant to the Commission's jurisdiction under Title 61 of the Idaho Code and specifically *Idaho Code* §§ 61-501 to 61-503.

YOU ARE FURTHER NOTIFIED that all proceedings in this matter will be conducted pursuant to the Commission's Rules of Procedure, IDAPA 31.01.01.000 *et seq.*

NOTICE OF MODIFIED PROCEDURE

YOU ARE FURTHER NOTIFIED that the Commission has determined that the public interest may not require a formal hearing in this matter, and that it will proceed under Modified Procedure pursuant to Rules 201 through 204 of the Commission's Rules of Procedure, IDAPA 31.01.01.201 through .204. The Commission notes that Modified Procedure and written comments have proven to be an effective means for obtaining public input and participation.

YOU ARE FURTHER NOTIFIED that any person or party desiring to state a position on this Application **must file a written comment in support or opposition with the Commission by May 19, 2021**. The comment must contain a statement of reasons supporting the comment. Persons desiring a hearing must specifically request a hearing in their written comments. Written comments concerning this Application shall be sent electronically, unless email is not available, to the Commission and the Applicant at the email addresses reflected below:

**For the Idaho Public Utilities
Commission:**

Commission Secretary
Idaho Public Utilities Commission
P.O. Box 83720
Boise, ID 83720-0074
Email: secretary@puc.idaho.gov

Street Address for Express Mail:

11331 W. Chinden Blvd.
Building 8, Suite 201-A
Boise, Idaho 83714

For Rocky Mountain Power:

Ted Weston
Idaho Regulatory Affairs Manager
Rocky Mountain Power
1407 West North Temple, Suite 330
Salt Lake City, UT 84116
Email: ted.weston@pacificorp.com

John Hutchings
Senior Attorney
Rocky Mountain Power
1407 West North Temple, Suite 320
Salt Lake City, UT 84116
Email: john.hutchings@pacificorp.com

Please send all data requests regarding this
Application in Microsoft Word to:

datarequest@pacificorp.com

If email is unavailable, then

Data Request Response Center
PacifiCorp
825 Multnomah, Suite 2000
Portland, Oregon 97232

Comments should contain the case caption and case number shown on the first page of this document. Persons desiring to submit comments via email may do so by accessing the Commission's home page located at www.puc.idaho.gov. Click the "Case Comment Form" and complete the comment form using the case number as it appears on the front of this document. These comments must also be sent to the Applicant.

YOU ARE FURTHER NOTIFIED that the Company must file any reply comments by June 2, 2021.

YOU ARE FURTHER NOTIFIED that if no written comments or protests are received within the time limit set, the Commission will consider this matter on its merits and enter its order without a formal hearing. If written comments are received within the time limit set, the Commission will consider them and, in its discretion, may set the same for formal hearing.

ORDER

IT IS HEREBY ORDERED that the Company's Application be processed by Modified Procedure, Rule 201-204 (IDAPA 31.01.01.201-.204). Persons interested in submitting written comments must do so by May 19, 2021. The Company must file any reply comments by June 2, 2021.

IT IS FURTHER ORDERED that parties should continue to comply with Order No. 34781, issued September 17, 2020. All pleadings should be filed with the Commission electronically and shall be deemed timely filed when received by the Commission Secretary. *See* Rule 14.02. Service between parties should also be accomplished electronically. Voluminous discovery-related documents may be filed and served on CD-ROM or a USB flash drive.

DONE by order of the Idaho Public Utilities Commission at Boise, Idaho this 18th day of February 2021.



PAUL KJELLANDER, PRESIDENT

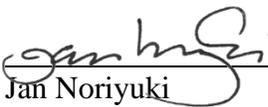


KRISTINE RAPER, COMMISSIONER



ERIC ANDERSON, COMMISSIONER

ATTEST:



Jan Noriyuki
Commission Secretary

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